

Elder Abuse and Neglect Act and Related Laws



including mandated reporters and
elder abuse provider agencies

August 2004

Illinois Department
on **Aging**

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Elder Abuse and Neglect Act and Related Laws

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Illinois Elder Abuse and Neglect Program

Elder Abuse. Many older people who live at home are at risk of abuse, neglect, and financial exploitation by family members and others close to them. It is estimated that over 76,000 persons over the age of 60 in Illinois are elder abuse victims; yet, only 8,000 elderly victims are reported to the Elder Abuse and Neglect Program annually. Victims of abuse are often isolated, and they may be afraid or unable to seek help for themselves. In many cases, the only person outside the family who sees the victim is a health care professional, home care provider, financial institution, or other helping professional. Therefore, it is critical that individuals know how to report cases of abuse, neglect, or financial exploitation for investigation and services.

Defining Elder Abuse. The Elder Abuse and Neglect Program responds to the following types of abuse:

- ❖ **Physical abuse** means inflicting physical pain or injury upon an older adult.
- ❖ **Sexual abuse** means touching, fondling, intercourse, or any other sexual activity with an older adult, when the older person is unable to understand, unwilling to consent, threatened or physically forced.
- ❖ **Emotional abuse** means verbal assaults, threats of abuse, harassment or intimidation.
- ❖ **Confinement** means restraining or isolating an older person, other than for medical reasons.
- ❖ **Passive neglect** means the caregiver's failure to provide an older person with life's necessities, including, but not limited to, food, clothing, shelter or medical care.

❖ **Willful deprivation** means willfully denying an older person medication, medical care, shelter, food, a therapeutic device or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm — except when the older person has expressed an intent to forego such care.

❖ **Financial exploitation** means the misuse or withholding of an older person's resources by another, to the disadvantage of the elderly person and/or the profit or advantage of someone else.

Reporting Elder Abuse. The Illinois Elder Abuse and Neglect Act directs the Illinois Department on Aging to establish an intervention program to respond to reports of alleged elder abuse, neglect and financial exploitation of older persons living in the community and to work with the older person in resolving the abusive situation. The program provides services to people over the age of 60 who may be victims of abuse as described above. The Elder Abuse and Neglect Act provides that a person — who in good faith reports suspected abuse or cooperates with an investigation — shall be immune from criminal or civil liability or professional disciplinary action. It further provides that the identity of the reporter shall not be disclosed except with the written permission of the reporter or by order of a court. Anonymous reports are also accepted.

To report suspected abuse, neglect, or exploitation, please call toll-free 1-800-252-8966 (Voice and TTY) or, after hours or on weekends and holidays, call 1-800-279-0400, or call the local elder abuse provider agency serving your area (see page 33). Callers should be prepared to report the alleged victim's name and address, what happened, where and when it happened, and who the suspected abuser might be. While reporting is voluntary for most individuals, certain professionals are mandated to report their concerns of elder abuse, neglect or financial exploitation. For a list of mandated reporters, please refer to pages 30-31.

Elder Abuse And Neglect Act

(Chapter 320 ILCS 20/1 et seq.)

Section

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Sec. 1. Short title.

This Act shall be known and may be cited as the “Elder Abuse and Neglect Act.”

Sec. 2. Definitions. As used in this Act, unless the context requires otherwise:

(a) “Abuse” means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse or neglect for the sole reason that he or

she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

(a-5) “Abuser” means a person who abuses, neglects, or financially exploits an eligible adult.

(a-7) “Caregiver” means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living.

(b) “Department” means the Department on Aging of the state of Illinois.

(c) “Director” means the Director of the Department.

(d) “Domestic living situation” means a residence where the eligible adult lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act;

(2) A “life care facility” as defined in the Life Care Facilities Act;

(3) A home, institution, or other place operated by the federal government or agency thereof or by the state of Illinois;

(4) A hospital, sanitarium, or other institution, the principle activity or business of which is the diagnosis,

care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(5) A “community living facility” as defined in the Community Living Facilities Licensing Act;

(6) A “community residential alternative” as defined in the Community Residential Alternatives Licensing Act; and

(7) A “community-integrated living arrangement” as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(e) “Eligible adult” means a person 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual.

(f) “Emergency” means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

(f-5) “Mandated reporter” means any of the following persons while engaged in carrying out their professional duties:

(1) a professional or professional’s delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and

Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Illinois Nursing Act of 1987, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act of 1987, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Professional Counselor and Clinical Professional Counselor Licensing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

(2) an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

(3) an administrator, employee, or person providing services in or through an unlicensed community-based facility;

(4) a Christian Science Practitioner;

(5) field personnel of the Department of Public Aid, Department of Public Health, and Department of Human Services, and any county or municipal health department;

(6) personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long Term Care Ombudsman;

(7) any employee of the state of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults; or

(8) a person who performs the duties of a coroner or medical examiner.

(9) a person who performs the duties of a paramedic or an emergency medical technician.

(g) “Neglect” means another individual’s failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or medical care. This subsection does not create any new affirmative duty to provide support to eligible adults. Nothing in this Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

(h) “Provider agency” means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation.

(i) “Regional administrative agency” means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated.

(j) “Substantiated case” means a reported case of alleged or suspected abuse, neglect or financial exploitation in which a

provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred. (Source: P.A. 86-820; 87-265.)

Sec. 3. Responsibilities.

(a) The Department shall establish, design and manage a program of response and services for persons 60 years of age and older who have been, or are alleged to be, victims of abuse, neglect, or financial exploitation. The Department shall contract with or fund or, contract with and fund, regional administrative agencies, provider agencies, or both, for the provision of those functions, and, contingent on adequate funding, with attorneys or legal services provider agencies for the provision of legal assistance pursuant to this Act.

(b) Each regional administrative agency shall designate provider agencies within its planning and service area with prior approval by the Department on Aging, monitor the use of services, provide technical assistance to the provider agencies and be involved in program development activities.

(c) Provider agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. Such assistance shall include but not be limited to receiving reports of alleged or suspected abuse, neglect or financial exploitation, conducting face-to-face assessments of such reported cases, determination of substantiated cases, referral of substantiated cases for necessary support services, referral of criminal conduct to law enforcement in accordance with Department guidelines, and provision of case work and follow-up services on substantiated cases.

Sec. 3.5 Other Responsibilities.

The Department shall also be responsible for the following activities, contingent upon adequate funding:

(a) promotion of a wide range of endeavors for the purpose of preventing elder abuse, neglect, and financial exploitation in both domestic and institutional settings, including, but not limited to, promotion of public and professional education to increase awareness of elder abuse, neglect, and financial exploitation, to increase reports, and to improve response by various legal, financial, social, and health systems;

(b) coordination of efforts with other agencies, councils, and like entities, to include but not be limited to, the Office of the Attorney General, the State Police, the Law Enforcement Training and Standards Board, the State Triad, the Criminal Justice Information Authority, the Departments of Public Health, Public Aid, and Human Services, the Family Violence Coordinating Council, the Violence Prevention Authority, and other entities which may impact awareness of, and response to, elder abuse, neglect, and financial exploitation;

(c) collection and analysis of data;

(d) monitoring of the performance of regional administrative agencies and elder abuse provider agencies; and

(e) promotion of prevention activities;

(f) establishing and coordinating a training program on the unique nature of elder abuse cases with other agencies, councils and like entities, to include but not be limited to, the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training and Standards Board, the State Triad, the Illinois Criminal Justice Information Authority, the State departments of Public Health, Public Aid, and Human Services, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority and other entities that may impact awareness of, and response to, elder abuse, neglect and financial exploitation.

(g) solicitation of financial institutions for the purpose of making information available to the general public warning of financial exploitation of the elderly and related financial fraud or abuse, including such information and warnings available through signage or other written materials provided by the Department on the premises of such financial institutions, provided that the manner of displaying or distributing such information is subject to the sole discretion of each financial institution; and

(h) coordinating efforts with utility and electric companies to send notices in utility bills to explain to persons 60 years of age or older their rights regarding telemarketing and home repair fraud.

Sec. 4. Reports of abuse or neglect.

(a) Any person who suspects the abuse, neglect, or financial exploitation of an eligible adult may report this suspicion to an agency designated to receive such reports under this Act or to the Department.

(a-5) If any mandated reporter has reason to believe that an eligible adult, who because of dysfunction is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under this Act or to the Department. Whenever a mandated reporter is required to report under this Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, board and care home, or agency, he or she shall make a report to an agency designated to receive such reports under this Act or to the Department in accordance with the provisions of this Act and may also notify the person in charge of the institution, facility, board and care home, or agency or his or her designated agent that the report has been made. Under no circumstances shall any person in charge of such institution, facility, board and

care home, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under this Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.

(a-7) A person making a report under this Act in the belief that it is in the alleged victim's best interest shall be immune from criminal or civil liability or professional disciplinary action on account of making the report, notwithstanding any requirements concerning the confidentiality of information with respect to such eligible adult which might otherwise be applicable.

(a-9) Law enforcement officers shall continue to report incidents of alleged abuse pursuant to the Illinois Domestic Violence Act of 1986, notwithstanding any requirements under this Act.

(b) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under this Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability in any civil, criminal or other proceeding brought in consequence of making such report or assessment or on account of submitting or otherwise disclosing such photographs or x-rays to any agency designated to receive reports of alleged or suspected abuse or neglect. Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under this Act shall, in the good faith performance of those services, have immunity from any civil,

criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services. For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, or financial exploitation shall be presumed.

(c) The identity of a person making a report of alleged or suspected abuse or neglect under this Act may be disclosed by the Department or other agency provided for in this Act only with such person's written consent or by court order.

(d) The Department shall by rule establish a system for filing and compiling reports made under this Act.

Sec. 4.1 Employer Discrimination.

No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who makes any good faith oral or written report of suspected elder abuse, neglect, or financial exploitation or who is or will be a witness or testify in any investigation or proceeding concerning a report of suspected elder abuse, neglect, or financial exploitation.

Sec. 4.2 Testimony by Mandated Reporter and Investigator.

Any mandated reporter who makes a report or any person who investigates a report under this Act shall testify fully in any judicial proceeding resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. Any mandated reporter who is required to report a suspected case of abuse, neglect, or financial exploitation under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult

subject of the report under this Act and the person making or investigating the report.

Sec. 5. Procedure.

(a) A provider agency designated to receive reports of alleged or suspected abuse, neglect, or financial exploitation under this Act shall, upon receiving such a report, conduct a face-to-face assessment with respect to such report. The assessment shall include, but not be limited to, a visit to the residence of the eligible adult who is the subject of the report and may include interviews or consultations with service agencies or individuals who may have knowledge of the eligible adult's circumstances. If, after the assessment, the provider agency determines that the case is substantiated, it shall develop a service care plan for the eligible adult. In developing the plan, the provider agency may consult with any other appropriate provider of services, and such providers shall be immune from civil or criminal liability on account of such acts. The plan shall include alternative suggested or recommended services which are appropriate to the needs of the eligible adult and which involve the least restriction of the eligible adult's activities commensurate with his or her needs. Only those services to which consent is provided in accordance with Section 9 of this Act shall be provided, contingent upon the availability of such services.

(b) A provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. Where a provider agency has reason to believe the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately report the matter to the coroner or medical examiner and shall cooperate fully with any subsequent investigation.

Sec. 6. Time.

The Department shall by rule establish the period of time within which an assessment shall begin and within which a service

care plan shall be implemented. Such rules shall provide for an expedited response to emergency situations.

Sec. 7. Review.

All services provided to an eligible adult shall be reviewed by the provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified; except that, upon review, the Department may grant a waiver to extend the service care plan for up to one additional year.

Sec. 8. Access to records.

(a) All records concerning reports of elder abuse, neglect, or financial exploitation and all records generated as a result of such reports shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law. Access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, or financial exploitation as contained in such records, shall be allowed to the following persons and for the following persons:

- (1) Department staff, provider agency staff, other aging network staff, and regional administrative agency staff in the furtherance of their responsibilities under this Act;
- (2) a law enforcement agency investigating known or suspected elder abuse, neglect, or financial exploitation. Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;
- (3) a physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected,

or financially exploited or who has been referred to the Elder Abuse and Neglect Program;

(4) an eligible adult reported to be abused, neglected, or financially exploited, or such adult's guardian unless such guardian is the abuser or the alleged abuser;

(5) a court or a guardian ad litem, upon its or his or her finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in camera inspection of the records, unless the court determines that disclosure of the information contained therein is necessary for the resolution of an issue then pending before it;

(6) a grand jury, upon its determination that access to such records is necessary in the conduct of its official business;

(7) any person authorized by the Director, in writing, for audit or bona fide research purposes;

(8) a coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, or financial exploitation. The provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult; and

(9) Department of Professional Regulation staff and members of the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act by provider agency staff.

Sec. 9. Authority to consent to services.

(a) If an eligible adult consents to services being provided according to the service care plan, such services shall be arranged to meet the adult's needs, based upon the availability of resources to provide such services. If an adult withdraws his or her consent or refuses to accept such services, the services shall not be provided.

(b) If it reasonably appears to the Department or other agency designated under this Act that a person is an eligible adult and lacks the capacity to consent to necessary services, including an assessment, the Department or other agency may seek the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such services.

(c) A guardian of the person of an eligible adult may consent to services being provided according to the service care plan. If a guardian withdraws his or her consent or refuses to allow services to be provided to the eligible adult, the Department, an agency designated under this Act, or the office of the Attorney General may request a court order seeking appropriate remedies, and may in addition request removal of the guardian and appointment of a successor guardian.

(d) If an emergency exists and the Department or other agency designated under this Act reasonably believes that a person is an eligible adult and lacks the capacity to consent to necessary services, the Department or other agency may request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged abuse, neglect, or financial exploitation occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, or financial exploitation or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986. Petitions filed under this subsection shall be treated as expedited proceedings.

(e) Within fifteen (15) days after the entry of the ex parte emergency order, the order shall expire or, if the need for assessment or services continues, the provider agency shall petition for the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such assessment or services or to protect the eligible adult from further harm.

Sec. 9.5. Commencement of action for Ex Parte Authorization Orders; Filing Fees; Process.

(a) Actions for ex parte authorization orders are commenced:

(1) independently, by filing a petition for an ex parte authorization order in the circuit court;

(2) in conjunction with other civil proceedings, by filing a petition for an ex parte authorization order under the same case number as a guardianship proceeding under the Probate Act of 1975 where the eligible adult is the alleged disabled adult.

(b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(c) Any action for an ex parte authorization order commenced independently is a distinct cause of action and requires that a separate summons be issued and served. Service of summons is not required prior to entry of emergency ex parte authorization orders.

(d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is

placed for service by the sheriff, it shall be made at the earliest time practicable and shall take precedence over other summonses except those of a similar emergency nature.

Sec. 10. Rules.

The Department shall adopt such rules and regulations as it deems necessary to implement this Act.

Sec. 11. Annual Reports.

The Department shall file with the Governor and the General Assembly, within 270 days after the end of each fiscal year, a report concerning its implementation of this Act during such fiscal year, together with any recommendations for future implementation.

Sec. 12. (Repealed)

Sec. 13. Access.

(a) The designated provider agencies shall have access to eligible adults who have been reported or found to be victims of abuse, neglect, or financial exploitation in order to assess the validity of the report, assess other needs of the eligible adult, and provide services in accordance with this Act.

(b) Where access to an eligible adult is denied, the Office of the Attorney General, the Department, or the provider agency may petition the court for an order to require appropriate access where:

- (1) a caregiver or third party has interfered with the assessment or service plan, or
- (2) the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation.

(c) The petition for an order requiring appropriate access shall be afforded an expedited hearing in the circuit court.

(d) If the elder abuse provider agency has substantiated financial exploitation against an eligible adult, and has documented a reasonable belief that the eligible adult will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General, the Department, or the provider agency may petition for an order freezing the assets of the eligible adult. The petition shall be filed in the county or counties in which the assets are located. The court's order shall prohibit the sale, gifting, transfer, or wasting of the assets of the eligible adult, both real and personal, owned by, or vested in, the eligible adult, without the expressed permission of the court. The petition to freeze the assets of the eligible adult shall be afforded an expedited hearing in the circuit court.

Sec. 13.5. Commencement of Action for Access; Filing Fees; Process; Notice; Duration of Orders.

(a) Actions for orders seeking access to an eligible adult or freezing assets of an eligible adult are commenced:

- (1) independently, by filing a petition for access to an eligible adult or freezing the assets of an eligible adult in circuit court;
- (2) in conjunction with other civil proceedings, by filing a petition for access to an eligible adult or freezing the assets of an eligible adult under the same case number as another civil proceeding involving the parties, including, but not limited to:
 - (i) a guardianship proceeding under the Probate Act of 1975;
 - (ii) a proceeding for involuntary commitment under the Mental Health and Developmental Disabilities Code;

(iii) any other proceeding, provided that the eligible adult or the respondent is a party to the subject of that proceeding.

(b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of such a petition, rule, motion or order in an action commenced under this Section.

(c) Any action for an order for access to an eligible adult or freezing assets of an eligible adult, whether commenced independently or in conjunction with another proceeding, is a distinct cause of action and requires that a separate summons be issued and served, except that in pending cases the following methods may be used:

(1) Delivery of the summons to respondent personally in open court in pending civil or criminal cases.

(2) Mailing to the defendant, or, if represented, to the defendant's attorney of record in the civil cases in which the defendant has filed a general appearance. The summons shall be in the form prescribed by subsection (d) of Supreme Court Rule 101, except that it shall require the respondent to answer or appear within seven days. Attachments to the summons or notice shall include the petition for access to an eligible adult or freezing assets of an eligible adult and supporting affidavits, if any, and any emergency order for access to an eligible adult or freezing assets of an eligible adult that has been issued.

(d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is

placed for service by the sheriff, it shall be made at the earliest time practicable and shall take precedence over other summonses except those of a similar emergency nature.

(e) Except as otherwise provided in this Section, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12 unless notice is excused by the Code of Civil Procedure, Supreme Court Rules, or local rules, as now or hereafter amended.

(f) Original notice of a hearing on a petition for access to an eligible adult or freezing assets of an eligible adult may be given, and the documents served, in accordance with Supreme Court Rules 11 and 12. When, however, an emergency order is sought in such a case of an ex parte application, the notice rules set forth in Section 11-101 of the Code of Civil Procedure shall apply.

(g) An order entered in accordance with Sections 13 and 13.5 shall be valid for a fixed period of time, not to exceed 2 years.

The Code of Criminal Procedure of 1963: (725 ILCS 5/115-10.3)

Sec. 10.3 Hearsay Exception Regarding Elder Adults.

(a) In a prosecution for abuse, neglect, or financial exploitation perpetrated upon or against an eligible adult, as defined in the Elder Abuse and Neglect Act, who at the time the act was committed has been diagnosed by a physician to suffer from (i) any form of dementia, developmental disability, or other form of mental incapacity or (ii) any physical infirmity which prevents the eligible adult's appearance in court, including but not limited to prosecutions for violations of Sections 10-1, 10-2, 10-3, 10-3.1, 10-4, 11-11, 12-1, 12-2, 12-3, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.5, 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4, 12-11,

12-11.1, 12-13, 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, 17-1, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1.1, 24-1.2 and 33A-2 of the Criminal Code of 1961, the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by an eligible adult, of an out of court statement made by the eligible adult, that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the eligible adult, describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for abuse, neglect, or financial exploitation perpetrated upon or against the eligible adult.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The eligible adult either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the condition of the eligible adult, the nature of the statement, the circumstances under which the statement was made, and any other relevant factors.

(d) The proponent of the statement shall give the adverse party reasonable notice of his or her intention to offer the statement and the particulars of the statement.

The Code of Civil Procedure:
(735 ILCS 5/Art. VIII, Part 27, Section 8-2701)

PART 27. ELDER ADULTS

Sec. 8-2701. Admissibility of Evidence; Out of Court Statements; Elder Abuse.

(a) An out of court statement made by an eligible adult, as defined in the Elder Abuse and Neglect Act, who has been diagnosed by a physician to suffer from (i) any form of dementia, developmental disability, or other form of mental incapacity or (ii) any physical infirmity which prevents the eligible adult's appearance in court, describing any act of elder abuse, neglect, or financial exploitation, or testimony by an eligible adult of an out of court statement made by the eligible adult that he or she complained of such acts to another, is admissible in any civil proceeding, if:

(1) the court conducts a hearing outside the presence of the jury and finds that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) the eligible adult either:

(i) testifies at the proceeding; or

(ii) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.

(b) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given to the statement and that, in making its determination, it shall consider the condition of the eligible adult, the nature of the statement, the circumstances under which the statement was made, and any other relevant factors.

(c) The proponent of the statement shall give the adverse party reasonable notice of an intention to offer the statement and the particulars of the statement.

The Probate Act of 1975: (755 ILCS 5/11A-10)

Sec. 11a-10. Procedures Preliminary to Hearing.

(a) Upon the filing of a petition pursuant to Section 11a-8, the court shall set a date and place for a hearing to take place within 30 days. The court shall appoint a guardian ad litem to report to the court concerning the respondent's best interests consistent with the provisions of this Section, except that the appointment of a guardian ad litem shall not be required when the court determines that such appointment is not necessary for the protection of the respondent or a reasonably informed decision on the petition. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work with or advocate for the developmentally disabled, mentally ill, physically disabled, the elderly, or persons disabled because of mental deterioration, depending on the type of disability that is alleged in the petition. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, persons with mental illness, or physically disabled persons, or persons disabled because of mental deterioration, depending on the type of disability that

is alleged. The guardian ad litem shall personally observe the respondent prior to the hearing and shall inform him orally and in writing of the contents of the petition and of his rights under Section 11a-11. The guardian ad litem shall also attempt to elicit the respondent's position concerning the adjudication of disability, the proposed guardian, a proposed change in residential placement, changes in care that might result from the guardianship, and other areas of inquiry deemed appropriate by the court. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the respondent, the responses of the respondent to any of the inquiries detailed in this Section, the opinion of the guardian ad litem or other professionals with whom the guardian ad litem consulted concerning the appropriateness of guardianship, and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify as to any issues presented in his or her report.

(b) The court (1) may appoint counsel for the respondent, if the court finds that the interests of the respondent will be best served by the appointment, and (2) shall appoint counsel upon respondent's request or if the respondent takes a position adverse to that of the guardian ad litem. The respondent shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The summons shall inform the respondent of this right to obtain appointed counsel. The court may allow counsel for the respondent reasonable compensation.

(c) If the respondent is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court may enter an order for the petitioner to pay all such fees or such amounts as the respondent or the respondent's estate may be unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, or where an elder abuse provider agency is the petitioner, pursuant to Section 9 of the

Elder Abuse and Neglect Act, no guardian ad litem or legal fees shall be assessed against the Office of State Guardian or the elder abuse provider agency.

(d) The hearing may be held at such convenient place as the court directs, including at a facility in which the respondent resides.

(e) Unless he or she is the petitioner, the respondent shall be personally served with a copy of the petition and a summons not less than 14 days before the hearing. The summons shall be printed in large, bold type and shall include the following notice:

NOTICE OF RIGHTS OF RESPONDENT

You have been named as a respondent in a guardianship petition asking that you be declared a disabled person. If the court grants the petition, a guardian will be appointed for you. A copy of the guardianship petition is attached for your convenience.

The date and time of the hearing are:

The place where the hearing will occur is:

The Judge's name and phone number is:

If a guardian is appointed for you, the guardian may be given the right to make all important decisions for you, such as where you may live, what medical treatment you may receive, what places you may visit, and who may visit you. A guardian may also be given the right to control and manage your money and other property, including your home, if you own one. You may lose the right to make these decisions for yourself.

You have the following legal rights:

- (1) You have the right to be present at the court hearing.*
- (2) You have the right to be represented by a lawyer, either one that you retain, or one appointed by the Judge.*
- (3) You have the right to ask for a jury of six persons to hear your case.*
- (4) You have the right to present evidence to the court and to confront and cross-examine witnesses.*
- (5) You have the right to ask the Judge to appoint an independent expert to examine you and give an opinion about your need for a guardian.*
- (6) You have the right to ask that the court hearing be closed to the public.*
- (7) You have the right to tell the court whom you prefer to have for your guardian.*

You do not have to attend the court hearing if you do not want to be there. If you do not attend, the Judge may appoint a guardian if the Judge finds that a guardian would be of benefit to you. The hearing will not be postponed or canceled if you do not attend.

IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN. IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND TELL THE JUDGE.

Service of summons and the petition may be made by a private person 18 years of age or over who is not a party to the action.

(f) Notice of the time and place of the hearing shall be given by the petitioner by mail or in person to those persons, including the proposed guardian, whose names and addresses appear in the petition and who do not waive notice, not less than 14 days before the hearing.

The Power of Attorney Act of 1987:

(755 ILCS 45/2-7.5 and 3.3)

Sec. 2-7.5. Incapacitated Principal.

(a) This section shall apply only to an agent acting for a principal who is incapacitated. A principal shall be considered incapacitated if that individual is under a legal disability as defined in Section 11a-2 of the Probate Act of 1975. A principal shall also be considered incapacitated if: (i) a physician licensed to practice medicine in all its branches has examined the principal and has determined that the principal lacks decision making capacity; and (ii) that physician has made a written record of this determination and has signed the written record within 90 days after the examination; and (iii) the written record has been delivered to the agent. The agent may rely conclusively on that written record.

(b) An agent shall provide a record of all receipts, disbursements, and significant actions taken under the authority of the agency when requested to do so: (i) by a representative of a provider agency, as defined in Section 2 of the Elder Abuse and Neglect Act, acting in the course of an assessment of a complaint of elder abuse or neglect under that Act; or (ii) by a representative of the Office of the State Long Term Care Ombudsman acting in the course of a complaint of financial

exploitation of a nursing home resident under Section 4.04 of the Illinois Act on the Aging.

Sec. 3.3. Additional Witness.

The power of attorney will not be effective unless it is notarized and signed by at least one additional witness using the form specified in the Power of Attorney Act. **The requirement of the signature of an additional witness imposed by this amendatory Act of the 91st General Assembly [91-0790] applies only to instruments executed on or after the effective date of this amendatory act of the 91st General Assembly [June 9, 2000].**

Mandated Reporters under the Elder Abuse and Neglect Act

As defined in the Elder Abuse and Neglect Act 320 (ILCS 20/1 et seq.), as amended

“Mandated Reporter” means any of the following persons while engaged in carrying out their professional duties:

- ✕ A professional or professional’s delegate while engaged in:
 - ❖ social services
 - ❖ the care of an eligible adult or eligible adults
 - ❖ education
 - ❖ law enforcement
 - ❖ any of the occupations required to be licensed under the:
 - Clinical Psychologist Licensing Act
 - Clinical Social Work and Social Work Practice Act
 - Illinois Dental Practice Act
 - Dietetic and Nutrition Services Practice Act
 - Marriage and Family Therapy Licensing Act
 - Medical Practice Act of 1987
 - Naprapathic Practice Act
 - Illinois Nursing Act of 1987
 - Illinois Occupational Therapy Practice Act
 - Illinois Public Accounting Act
 - Illinois Optometric Practice Act of 1987
 - Pharmacy Practice Act of 1987
 - Illinois Physical Therapy Act
 - Physician Assistant Practice Act of 1987
 - Podiatric Medical Practice Act of 1987
 - Professional Counselor and Clinical Professional Counselor Licensing Act
 - Illinois Speech-Language Pathology and Audiology Practice Act

- ✕ Nursing Home Admin. Licensing & Disciplinary Act
- ✕ Veterinary Medicine and Surgery Practice Act of 2004
- ✕ an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;
- ✕ an administrator, employee, or person providing services in or through an unlicensed community-based facility;
- ✕ a Christian Science Practitioner;
- ✕ field personnel of the Department of Public Aid, Department of Public Health, and Department of Human Services, and any county or municipal health department;
- ✕ personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies,* and the Office of State Long Term Care Ombudsman;
- ✕ any employee of the state of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;
- ✕ a person who performs the duties of a coroner or medical examiner;
- ✕ a person who performs the duties of a paramedic or an emergency medical technician.

* Note: the law exempts attorneys, including legal services providers and bankers, from mandatory reporting.

Agencies Responding to Domestic Elder Abuse, Neglect and Financial Exploitation

Illinois Department on Aging

1-800-252-8966
(Voice and TTY)

Can accept reports of domestic elder abuse, neglect, and financial exploitation and refer to the local Elder Abuse Provider Agencies throughout the state. **The after-hours toll free number is 1-800-279-0400.** Or call locally:

County	Elder Abuse Agency	Phone Number
Adams	West Central Illinois Case Coordination Unit	1-217-222-1189
Alexander	Shawnee Alliance for Seniors	1-618-985-8322
Bond	Southwestern Illinois Visiting Nurses Association	1-618-236-5863
Boone	Visiting Nurses Association of Rockford	1-815-971-3502
Brown	West Central Illinois Case Coordination Unit	1-217-222-1189
Bureau	Alternatives for the Older Adult	1-309-277-0168
Calhoun	West Central Illinois Case Coordination Unit	1-217-222-1189
Carroll	Intouch Service of Lutheran Social Services of Illinois	1-815-626-7333
Cass	Prairie Council on Aging	1-217-479-4600
Champaign	Senior Resource Center	1-217-352-5100
Christian	Macoupin Co. Programs for the Elderly	1-217-854-4706
Clark	Cumberland Associates, Inc.	1-800-626-7911
Clay	Effingham City and County Committee on Aging	1-800-283-4070
Clinton	Southwestern Illinois Visiting Nurses Association	1-618-236-5863
Coles	Cumberland Associates, Inc.	1-800-626-7911

County	Elder Abuse Agency	Phone Number
Cook	See page 37.	
Crawford	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
Cumberland	Cumberland Associates, Inc.	1-800-626-7911
DeKalb	Elder Care Services of DeKalb Co.	1-815-758-6550
DeWitt	Community Home Environmental Learning Project, Inc. (CHELP)	1-217-422-9888
Douglas	Cumberland Associates, Inc.	1-800-626-7911
DuPage	DuPage Co. Dept. of Human Resources	1-630-682-7000
Edgar	Cumberland Associates, Inc.	1-800-626-7911
Edwards	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
Effingham	Effingham City and County Committee on Aging	1-800-283-4070
Fayette	Effingham City and County Committee on Aging	1-800-283-4070
Ford	Elder Care Services of Ford-Iroquois Counties	1-815-432-2483
Franklin	Shawnee Alliance for Seniors	1-618-985-8322
Fulton	SeniorStrength	1-309-637-3905
Gallatin	Shawnee Alliance for Seniors	1-618-985-8322
Greene	Prairie Council on Aging	1-217-479-4600
Grundy	Grundy County Health Department	1-815-941-3143
Hamilton	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
Hancock	West Central Illinois Case Coordination Unit	1-217-222-1189
Hardin	Shawnee Alliance for Seniors	1-618-985-8322
Henderson	Alternatives for the Older Adult	1-309-277-0168
Henry	Alternatives for the Older Adult	1-309-277-0168
Iroquois	Elder Care Services of Ford-Iroquois Counties	1-815-432-2483
Jackson	Shawnee Alliance for Seniors	1-618-985-8322
Jasper	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
Jefferson	Effingham City and County Committee on Aging	1-800-283-4070

County	Elder Abuse Agency	Phone Number
Jersey	Prairie Council on Aging	1-217-479-4600
JoDaviess	Stephenson County Senior Center	1-815-235-9777
Johnson	Shawnee Alliance for Seniors	1-618-985-8322
Kane	Senior Services Associates (Elgin) (Aurora)	1-847-741-0404 1-630-897-4035
Kankakee	Catholic Charities, Diocese of Joliet	1-815-932-1921
Kendall	Senior Services Associates, Inc.	1-630-553-5777
Knox	Alternatives for the Older Adult	1-309-277-0168
Lake	Catholic Charities, Chicago Archdiocese	1-847-546-5733
LaSalle	Alternatives for the Older Adult	1-309-277-0168
Lawrence	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
Lee	Intouch Services of Lutheran Social Services of Illinois	1-815-626-7333
Livingston	PATH	1-309-828-1022
Logan	Senior Services of Central Illinois	1-217-528-4035
Macon	Community Home Environmental Learning Project, Inc. (CHELP)	1-217-422-9888
Macoupin	Macoupin County Programs for the Elderly	1-217-854-4706
Madison	Southwestern Illinois Visiting Nurses Association	1-618-236-5863
Marion	Effingham City and County Committee on Aging	1-800-283-4070
Marshall	SeniorStrength	1-309-637-3905
Mason	Senior Services of Central Illinois	1-217-528-4035
Massac	Shawnee Alliance for Seniors	1-618-985-8322
McDonough	Alternatives for the Older Adult	1-309-277-0168
McHenry	Senior Services Associates	1-815-344-3555
McLean	PATH	1-309-828-1022
Menard	Senior Services of Central Illinois	1-217-528-4035
Mercer	Alternatives for the Older Adult	1-309-277-0168

County	Elder Abuse Agency	Phone Number
Monroe	Southwestern Illinois Visiting Nurses Association	1-618-236-5863
Montgomery	Montgomery County Health Dept.	1-217-532-2001
Morgan	Prairie Council on Aging	1-217-479-4600
Moultrie	Cumberland Associates, Inc.	1-800-626-7911
Ogle	Intouch Services of Lutheran Social Services of Illinois	1-815-626-7333
Peoria	SeniorStrength	1-309-637-3905
Perry	Shawnee Alliance for Seniors	1-618-985-8322
Piatt	Senior Resource Center	1-217-352-5100
Pike	West Central Illinois Case Coordination Unit	1-217-222-1189
Pope	Shawnee Alliance for Seniors	1-618-985-8322
Pulaski	Shawnee Alliance for Seniors	1-618-985-8322
Putnam	Alternatives for the Older Adult	1-309-277-0168
Randolph	Southwestern Illinois Visiting Nurses Association	1-618-236-5863
Richland	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
Rock Island	Alternatives for the Older Adult	1-309-277-0168
Saline	Shawnee Alliance for Seniors	1-618-985-8322
Sangamon	Senior Services of Central Illinois	1-217-528-4035
Schuyler	West Central Illinois Case Coordination Unit	1-217-222-1189
Scott	Prairie Council on Aging	1-217-479-4600
Shelby	Cumberland Associates, Inc.	1-800-626-7911
St. Clair	Southwestern Illinois Visiting Nurses Association	1-618-236-5863
Stark	SeniorStrength	1-309-637-3905
Stephenson	Stephenson County Senior Center	1-815-235-9777
Tazewell	SeniorStrength	1-309-637-3905
Union	Shawnee Alliance for Seniors	1-618-985-8322
Vermilion	Community Resources and Information for Seniors (CRIS) Services	1-217-443-2999

County	Elder Abuse Agency	Phone Number
Wabash	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
Warren	Alternatives for the Older Adult	1-309-277-0168
Washington	Southwestern Illinois Visiting Nurses Association	1-618-236-5863
Wayne	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
White	SWAN (Stopping Woman Abuse Now)	1-618-392-3556
Whiteside	Intouch Services of Lutheran Social Services of Illinois	1-815-626-7333
Will	Senior Services Center of Will Co.	1-815-740-4225
Williamson	Shawnee Alliance for Seniors	1-618-985-8322
Winnebago	Visiting Nurses Association of Rockford	1-815-971-3502
Woodford	SeniorStrength	1-309-637-3905

Cook County

Chicago	Elder Abuse Agency	Phone Number
Northeast Northwest	Catholic Charities Elder Protective Services	1-773-286-6041
Southeast Central West Southwest	Metropolitan Family Services Metropolitan Family Services Metropolitan Family Services Metropolitan Family Services	1-773-884-2470

Suburban Cook County

Service Area	Elder Abuse Agency	Phone Number
Berwyn, Cicero	Berwyn-Cicero Council on Aging	1-708-863-3552
Barrington, Hanover, Palatine, and Wheeling Townships	Catholic Charities (Northwest Senior Services)	1-847-253-5500
Bloom, Bremen, Calumet, Rich and Thornton Townships. Cities served: Dixmoor, Harvey, Homewood, Markham, Burnham, Dolton, Calumet City, East Hazel Crest,	Catholic Charities (South Suburban Senior Services)	1-708-596-2222

Service Area	Elder Abuse Agency	Phone Number
Elk Grove, Schaumburg	Kenneth W. Young Centers	1-847-524-8800
Leyden, Norwood Park	Leyden Family Services	1-847-455-3929
Evanston, Niles	Metropolitan Family Services	1-847-328-2404
Maine, New Trier, Northfield	North Shore Senior Center	1-847-784-6000
Oak Park, River Forest	Oak Park Township	1-708-383-8060
Lemont, Orland, Palos and Worth Townships	PLOWS (Palos, Lemont, Orland and Worth) Council on Aging	1-708-361-0219
Proviso Twp. (except the Villages of Brookfield and LaGrange Park)	West Suburban Senior Services	1-708-547-5600
Lyons and Riverside Twps. and the Villages of Brookfield and LaGrange Park	Southwest Suburban Center on Aging	1-708-354-1323
Stickney Township	Stickney Township Office on Aging	1-708-636-8850

Note: This list of Elder Abuse Provider Agencies can also be found on the Illinois Department on Aging's Web site (www.state.il.us/aging) under the Directory of Agencies and Organizations Serving Seniors.

Illinois Department
on **Aging**

421 East Capitol Ave., #100
Springfield, IL 62701-1789

Senior HelpLine:
1-800-252-8966

(Voice & TTY)

8:30 a.m. to 5:00 p.m., Monday through Friday

Elder Abuse After Hours Hotline:

1-800-279-0400

after office hours, on weekends and holidays

www.state.il.us/aging/

E-mail: ilsenior@aging.state.il.us

The Illinois Department on Aging does not discriminate in admission to programs or treatment of employment in compliance with appropriate State and Federal statutes. If you feel you have been discriminated against, call the Senior HelpLine at 1-800-252-8966 (Voice and TTY).

Printed by Authority State of Illinois (Rev. 4/03 - 5M; 8/04 - 10M)